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OFFICE OF PETITIONS

In re Application of
Lukas, et al.
Application No. 09/177,427
Filed: October 22, 1998
Attorney Docket No. 4804-4

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 29, 2002 (Certificate of Mailing dated April 19, 2002), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action, mailed May 8, 2001, which set a shortened statutory period for reply of three (3) months. On January 14, 2002, petitioner submitted an amendment together with a three month extension of time. However, the amendment was not timely because it did not include a proper Certificate of Mailing.¹ Accordingly, the above-identified application became abandoned on August 9, 2001. A Notice of Abandonment was mailed on March 27, 2002.

Petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the petition fee and made the proper statement of unintentional delay. The required reply in the form of an amendment was previously submitted on January 14, 2002.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$920 extension of time fee submitted on January 14, 2002 was subsequent to the maximum period obtainable for reply (November 8, 2000), this fee has been refunded to petitioner's Deposit Account 03-2412.

The application file is being forwarded to Technology Center 1600 for consideration of petitioner's amendment, filed January 14, 2002.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ The Certificate of Mailing, although dated November 8, 2001 (the last day obtainable for reply), did not include a signature.

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REQUEST FOR PATENT FEE REFUND											
1 Date of Request: <u>6/18/02</u>		2 Serial/Patent # <u>09 177,427</u>									
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT							
	Filing			\$							
	Amendment			\$							
<input checked="" type="checkbox"/>	Extension of Time	28	1/16/02	\$ 920.00							
	Notice of Appeal/Appeal			\$							
	Petition			\$							
	Issue			\$							
	Cert of Correction/Terminal Disc.			\$							
	Maintenance			\$							
	Assignment			\$							
	Other			\$							
			7 TOTAL AMOUNT OF REFUND	\$ 920.00							
10 REASON:		8 TO BE REFUNDED BY:									
	Overpayment	<input type="checkbox"/> Treasury Check									
	Duplicate Payment	<input checked="" type="checkbox"/> Credit Deposit A/C #:									
<input checked="" type="checkbox"/>	No Fee Due (Explanation):	9 <table border="1" style="display: inline-table; border-collapse: collapse; text-align: center;"> <tr> <td style="width: 20px;">0</td> <td style="width: 20px;">3</td> <td style="width: 20px;">--</td> <td style="width: 20px;">2</td> <td style="width: 20px;">4</td> <td style="width: 20px;">1</td> <td style="width: 20px;">2</td> </tr> </table>			0	3	--	2	4	1	2
0	3	--	2	4	1	2					
<p style="font-size: 1.2em;">Applicant submitted an extension of time outside of the maximum period obtainable for reply</p>											
11 REFUND REQUESTED BY:											
TYPED/PRINTED NAME: <u>Cliff Congo</u>		TITLE: <u>Petitions Attorney</u>									
SIGNATURE: <u>Cliff Congo</u>		PHONE: <u>305-0272</u>									
OFFICE: <u>Petitions</u>											
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****											
APPROVED: <u>Cliff Kelly</u>		DATE: <u>6/19/02</u>									

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to: